

REMARKS

1. Summary of the Office Action

In the non-final Office Action mailed on March 19, 2009 the Examiner rejected claims 1-5, 7-10, 12-21, 23-24, 25-29, and 31 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,944,859 (Bunger). The Examiner rejected claims 6, 11, 22, and 30 under 35 U.S.C. § 103(a) as being unpatentable over Bunger in view of U.S. Publication No. 2004/0015961 (Chefalas). The Examiner rejected claims 8, 13, 24, and 32 under 35 U.S.C. § 103(a) as being unpatentable over Bunger in view of U.S. Patent No. 7,174,456 (Henry).

2. Summary of the Claims

Claims 1-7, 9-32 are currently pending, of which claims 1, 9, 17, and 25 are independent and the remainder are dependent. In this response, Applicant has amended claims 1, 9, 17, and 25-32 and cancelled claim 8. These amendments are generally supported by the specification and specifically at least as indicated below.

3. Response to Claim Rejections

a. Amended claims 25-32 are means + functions claims directed to a host computing device, which is directed to patentable subject matter including both hardware and software elements.

The Examiner rejected claims 25-32 under 35 U.S.C. § 101 as allegedly failing to recite patentable subject matter on grounds that claim 25 was “directed towards software per se.”

Applicant respectfully disagrees with the Examiner’s interpretation of claim 25 as being directed to non-statutory subject matter. The 35 U.S.C. § 101 rejection of claims 25-32 ignores these structural aspects of the means plus functions claim elements, contrary to Federal Circuit legal precedent. Specifically, the Federal Circuit has held that “in a means-plus-function claim in which the disclosed structure is a computer, or microprocessor, programmed to carry out an algorithm, the disclosed structure is ... the special purpose computer programmed to perform the disclosed algorithm.” *WMS Gaming Inc. v. International Game Tech.*, 184 F.3d 1339, 1348-49, 51 USPQ2d 1385, 1391-92 (Fed. Cir. 1999). The Examiner’s rejection of a means plus function claim simply by virtue of the fact that the claimed function might be “software alone” is contrary to the established holdings of the Federal Circuit.

To expedite prosecution, Applicant has amended claims 25-32 to recite a host computing device. Applicant believes that the specification generally recites use of both computer hardware and software for operation a host computing device, which is the subject matter of amended claim 25. For example, Figure 4 shows the host computing device 201-i . Figure 4 is described on at least ¶¶ 0026-0029 of the specification. These paragraphs teach, in part, that the “[h]ost computing device 203-i comprises processor 401-i, memory 402-i, and display 403-i, interconnected as shown. Host processor 401-i is **a general purpose processor** that is capable of performing the tasks described below and with respect to Figure 5...Host memory 402-i is capable of storing programs and data used by host processor 401-i.... Display 403-i is capable of displaying information received from station 201-i....” (emphasis added). Specifically, the specification teaches the use of a special purpose computer programmed to perform the disclosed algorithm as claimed in claims 25-32. *See also* Figure 5 and ¶¶ 0030-0040.

Further, Applicant has amended claim 25 to recite, *inter alia*, “means for electrically coupling with a station configured as a host interface card”. Support for this amendment to claim 25 may be found generally throughout the specification and specifically on at least ¶ 0031 of the specification. ¶ 0031 teaches in part:

At task 501, host computing device 203-j requests one or more device driver files from station 201-i in well-known fashion. **This is triggered, for example, when host computing device 203-i senses that it has become electrically coupled with station 201-I after a user has plugged in a network interface card into a card slot of a laptop.**

(emphasis added). Thus, the recited “means for electrically coupling with a station” are not “software alone” as described in the specification.

Means plus function claim elements are properly interpreted in view of the specification to cover the corresponding structural elements which perform the recited function. It is inappropriate to disregard this tenet of claim construction in an attempt to convert a claim directed to statutory subject matter into a non-statutory *per se* computer program. *See e.g.*, M.P.E.P. § 2106(II)(C) (“USPTO personnel are to give the claimed means plus function limitations their broadest reasonable interpretation consistent with **all** corresponding structures or materials described in the specification...”).

Applicant submits that a reasonable interpretation of claim 25 in light of the specification clearly indicates claim 25 is directed to patentable subject matter as discussed above. In

particular, Applicant submits that a reasonable interpretation of host computing devices as described in the specification includes computer-hardware structures that are obviously patentable subject matter. As such, Applicant respectfully requests the Examiner review at least the cited portions of the specification, give the means recited in claim 25 their broadest reasonable interpretation consistent with all corresponding structures or materials described in the specification.

As claim 25 is directed to patentable subject matter, Applicant also submits that claims 26-32 are directed to patentable subject matter at least on grounds that they depend from claim 25. For at least the reasons presented above, Applicant respectfully requests withdrawal of the rejection of claims 25-32 under 35 U.S.C. § 101.

b. Amended claims 25-32 are means + functions claims directed to a host computing device, which is a structure for the functions claimed in claims 25-32.

The Examiner rejected claims 25-32 under 35 U.S.C. § 112, ¶ 2 as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. The Examiner explained that “[c]laim 25 is a means (or step) plus function limitation that invokes 35 U.S.C. 112, sixth paragraph. However, the written description fails to disclose the corresponding structure, material or acts for the claimed function.” Office Action, p. 3. The Examiner stated that “[i]f applicant is of the opinion that the written description of the specification already or implicitly disclosed s the corresponding structure....applicant is required to clarify the record by...[s]tating on the record what the corresponding structure, material, or acts, which are implicitly or inherently set forth in the written description of the specification....” *Id.* The Examiner made a similar rejection of claims 25-32 under 35 U.S.C. § 112, ¶ 1. Office Action, p. 4.

In response, Applicant requests the Examiner review the previous section of this response, which provides quotations and citations to at least some of the portions of the specification that provide structure for the inventions of claims 25-32. Applicant believes the record has been clarified as requested by the Examiner. Therefore, Applicant respectfully requests the Examiner withdraw the rejections under 35 U.S.C. § 112 of claims 25-32.

c. Claim 1 is not anticipated by Bunger, as Bunger does not disclose the use of first and second network-specific data, installation of a device driver based on selection of options, and/or stations configured as network interface cards as recited in claims 1, 9, 17, and 25.

The Examiner rejected claims 1, 9, 17, and 25 under 35 U.S.C. § 102(e) as being anticipated by Bunger. In this response, Applicant has amended claim 1 to recite, *inter alia*, “receiving an option for device driver installation, wherein the option is not selectable in the device driver file or in the first portion of network-specific data”, “installing the sent device driver file based on the received option”, “storing a second portion of network-specific data at the station that is not accessible by the host computing device, wherein the second portion of network-specific data comprises at least one parameter for controlling use of a network by the host computing device, and wherein the at least one parameter controls a length of time the user is allowed to access the network”, and “receiving a data block from the host computing device, wherein the host computing device uses the device driver to transfer the data block to the station, wherein the first portion of network-specific data comprises a plurality of pre-configured network-specific parameters that enable the host computer to access the network, and wherein the station controls an amount of time allowed to access to the network by the host computer using the second portion of network-specific data.”

Support for these amendments to claim 1 may be found generally throughout the specification and specifically in at least ¶¶ 0008-0009, 0033-0034, and 0037 of the specification.

Bunger describes downloading and installing files from an installation server onto a handheld computer. *See* Bunger, col. 4, lines 37-39. The handheld computer is linked to a client computer, which is in turn connected to the installation server via a network. Bunger, col. 4, lines 43-62. Bunger discloses use of a client-handheld conduit file “used to setup a direct communication link between the installation server and the handheld computer”. Bunger, col. 5, lines 55-57. The client computer may have “[a]uthentication procedures 318 [that] are used to authenticate a user’s access to the handheld file 224 (FIG. 2) on the installation server 102....” Bunger, col. 6, lines 18-20. A user may be authenticated by the installation server by use of “an authentication request, which may contain entries for a username and password” checked by the installation server using authentication procedures 216. Bunger, col. 8, lines 42-48.

Bunger describes that “the installation server identifies the user type...[which] provides details such as the type of user and handheld files to which the user has access to... Based on the user type and whether the user has been authenticated, the client computer then determines, at

step 560, if the user is a valid user...If the user is not a valid user (560-NO), an error message is generated...If the user is a valid user (560-Yes), the client-handheld file is installed from the installation server at step 564....” Bunker, col. 8, lines 50-67. Once the user is authenticated, the client computer may request the client-handheld conduit file from the installation server. Bunker, col. 9, lines 6-12. Bunker describes the client-handheld conduit file as “an executable file that provides for communication between the client computer and the handheld computer”. Bunker, col. 9, lines 13-14. Bunker indicates that the client computer synchronizes with the handheld computer and then installs the client-handheld conduit file on the handheld computer. Bunker, col. 9, lines 28-34. The client computer can save environment information sent from the handheld computer. Bunker, col. 10, lines 12-18.

However, Bunker does not disclose the use of selections regarding installation of the client-handheld conduit file once this file has been downloaded, much less “receiving an option for device driver installation, wherein the option is not selectable in the device driver file or in the first portion of network-specific data” and “installing the sent device driver file based on the received option” as recited in claim 1.

The Examiner appears to rely on Bunker’s description of the client-handheld conduit file as both the recited device driver file and the first portion of network-specific data. *See* Office Action, p. 5. As indicated above, Bunker describes the client-handheld conduit file as “an executable file that provides for communication between the client computer and the handheld computer”. Bunker, col. 9, lines 13-14. However, Bunker does not disclose that the client-handheld conduit file comprises network specific data that includes a plurality of pre-configured network-specific parameters, much less “wherein the first portion of network-specific data comprises a plurality of pre-configured network-specific parameters that enable the host computer to access the network” as recited in claim 1.

Further, Bunker does not disclose the use of parameters, including a length of time the host computer can access the network that are both unreadable by the client computer and that control access by the client computer to the network. In contrast, claim 1 recites, *inter alia*, “storing a second portion of network-specific data at the station that is not accessible by the host computing device, wherein the second portion of network-specific data comprises at least one parameter for controlling use of a network by the host computing device, and wherein the at least

one parameter controls a length of time the user is allowed to access the network once access is granted.”

Applicant therefore submits that Bunger does not disclose all of the subject matter recited in amended claim 1.

d. The Bunger/Henry combination does not disclose or suggest use of data that sets a length of time that the host computer can access the network once access has been granted as recited in claim 1.

Claim 1 has been amended to recite that “the second portion of network-specific data comprises at least one parameter for controlling use of a network by the host computing device, and wherein the at least one parameter sets a length of time that the host computer can access the network once access is granted”. Much of this quoted subject matter was recited in previous claim 8 (now cancelled).

In rejecting previous claim 8, the Examiner relied on a combination of Bunger and Henry. Office Action, pp. 13-14. Specifically, the Examiner stated that “Bunger does not disclose data that sets a length of time that host computer can access the network. Henry discloses data that sets a length of time that host computer can access the network (col. 2, lines 23-43 ‘The authentication credential includes a security certificate having a public key for the network access device and an expiration time....’)” *Id.* (formatting changed).

Henry discloses that the security certificate is checked for validity based on the expiration time: if the security certificate is invalid, an access request is denied, and if the security certificate valid, the access request is granted and access is granted to the network. Henry, col. 4, lines 8-36.

However, checking of an expiration time to grant or deny access to a network as disclosed in Henry is different from a length of time a computer can access the network once access is granted. The difference is that Henry discloses a determination of a time (based on an expiration time of a security certificate) for initial access to a network, while amended claim 1 recites setting “a length of time the user can access the network once access is granted”.

Applicant therefore submits that the Bunger/Henry combination does not disclose or suggest the “at least one parameter sets a length of time that the host computer can access the network once access is granted” as recited in claim 1 and therefore does not cure the above-mentioned deficiencies of Bunger.

Therefore, for at least these reasons, claim 1 is allowable over the cited art.

e. **Claim 9 is not anticipated by Bunker, as Bunker does not describe the use of network interface cards as recited in claim 9. Claims 17 and 25 are allowable for at least the reasons presented for claims 1 and 9.**

Amended claim 9 recites, *inter alia*, “a host interface for transferring the device driver file, the first portion of network-specific data, and parameters that change over time, wherein the parameters that change over time comprise a signal-strength parameter and a data-rate parameter”. Support for the amendments to claim 9 may be found generally throughout the specification, and specifically in at least ¶¶ 0036 of the specification.

Bunker is summarized above with respect to claim 1. In addition to the above-mentioned deficiencies in Bunker, Bunker does not disclose transmission of signal strengths or data rates, much less “transferring parameters that change over time, wherein the parameters that change over time comprise a signal-strength parameter and a data-rate parameter” as recited in claim 9. Applicant therefore submits that Bunker does not disclose all of the subject matter recited in amended claim 9.

Using language similar to that discussed above with respect to claims 1 and 9, claims 17 and 25 have also been amended to recite part or all of the above-mentioned subject matter. Thus, Applicant submits that Bunker does not anticipate amended claims 9, 17, and 25 for at least the reasons presented above for claims 1 and 9.

Further, Applicant submits that each of the dependent claims is allowable, for at least the reason that each dependent claim ultimately depends from an allowable base claim — either claim 1, 9, 17, or 25 — as shown above. Applicant therefore respectfully requests that the Examiner withdraw the rejections of claims 1-32 under 35 U.S.C. §§ 102 and 103.

4. Conclusion

In view of the foregoing, Applicant submits that all pending claims are allowable, and thus Applicant respectfully requests allowance of these claims. Should the Examiner wish to discuss this case, the Examiner is invited to call the undersigned at (312) 913-3338.

Respectfully submitted,

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